

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RAHEEM HALE,

Plaintiff,

- against -

CAPTAIN S. DUNBAR, Shield No. 717, C.O.
BRAVO, C.O. "JOHN DOE," and THE CITY
OF NEW YORK,

Defendants.
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COMPLAINT
AND JURY TRIAL
DEMAND

Plaintiff, RAHEEM HALE, by his attorney, ALAN D. LEVINE, ESQ., complaining
of the defendants herein, respectfully alleges as follows:

JURISDICTION

1. This is a civil action, seeking compensatory damages, punitive damages and attorney's fees.
2. This action is brought pursuant to 42 U.S.C. §§1983 and 1988 and the eighth amendment to the Constitution of the United States.
3. Jurisdiction is founded upon 28 U.S.C. §§1331, 1343 and 1367.
4. Plaintiff, invoking the pendent jurisdiction of this Court, also seeks damages for battery.

VENUE

5. Venue is properly alleged in the Southern District of New York in that the acts complained of herein occurred within this District.

JURY TRIAL DEMAND

6. Plaintiff hereby demands a trial by jury of all issues in this action that are so triable.

PARTIES

7. At all times relevant hereto, plaintiff, RAHEEM HALE, was and is a natural person, presently residing at Five Points Correctional Facility, County of Seneca, State of New York.

8. At all times relevant hereto, defendant CAPTAIN S. DUNBAR, Shield No. 717 (hereinafter "DUNBAR") was and is a natural person, employed by the Department of Correction of defendant THE CITY OF NEW YORK.

9. At all times relevant hereto, defendant C.O. BRAVO (hereinafter "BRAVO") was and is a natural person, employed by the Department of Correction of defendant THE CITY OF NEW YORK.

10. At all times relevant hereto, defendant C.O. "JOHN DOE" (hereinafter "DOE") was and is a natural person, employed by the Department of Correction of defendant THE CITY OF NEW YORK.

11. At all times relevant hereto, defendant THE CITY OF NEW YORK was and is a municipal corporation, organized and existing pursuant to the laws of the State of New York.

12. The individual defendants are sued in their individual capacities.

13. On or about July 9, 2010, this date being within ninety (90) days

after the claims herein sued upon accrued, plaintiff served upon the Comptroller of the City of New York a verified written notice of claim, setting forth the time, place, nature and manner in which said claim arose.

13. More than thirty (30) days have elapsed since the aforesaid verified notice of claim was served and the Comptroller has neglected and refused to make payment of said claim.

14. This action is commenced within one year and ninety days from the date the pendent claim herein accrued.

**AS AND FOR A FIRST CAUSE OF ACTION
AGAINST THE INDIVIDUAL DEFENDANTS**
(42 U.S.C. §1983)

15. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "14" hereinabove as if more fully set forth at length herein.

16. On or about April 14, 2010, plaintiff, a sentenced prisoner, having been returned to a New York City correctional facility on an open charge, was being held at the George R. Vierno Center, which is located on Rikers Island, County of Bronx, City and State of New York, with a post office address of 09-09 Hazen Street, East Elmhurst, New York 11370.

17. At approximately 4:45 P.M. on the aforementioned date, while plaintiff was in an area of the aforementioned institution known as the "mini clinic," he was, without any cause or provocation on his part whatsoever, assaulted and severely beaten by the individual defendants hereto.

18. Defendant DUNBAR struck plaintiff on his head with a walkie-talkie, causing him to lose consciousness and fall to the floor.

19. All three individual defendants continued to strike plaintiff, using their knees and their fists.

20. The individual defendants violated plaintiff's right not to be subjected to cruel and unusual punishments, guaranteed to him by the eighth amendment to the Constitution of the United States in that, acting under color of state law, they, without any cause or provocation whatsoever, brutally and severely beat him.

21. Because of the aforesaid acts committed by the individual defendants, plaintiff suffered a deprivation of his right not to be subjected to cruel and unusual punishments, guaranteed to him by the eighth amendment to the Constitution of the United States, and, as a result, suffered and continues to suffer serious and permanent physical and emotional injuries, and required medical treatment for his injuries.

22. By reason of the aforementioned unconstitutional, illegal and unreasonable actions taken against him by the individual defendants, plaintiff has been damaged in the amount of One Million (\$1,000,000.00) Dollars and demands an additional One Million (\$1,000,000.00) Dollars as punitive damages against the individual defendants.

**AS AND FOR A SECOND CAUSE OF ACTION
AGAINST THE INDIVIDUAL DEFENDANTS
and THE CITY OF NEW YORK
(Battery)**

23. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "22" hereinabove as if more fully set forth at length herein.

24. On or about April 14, 2010, at approximately 4:45 P.M., in the "mini clinic" located at the George R. Vierno Center on Rikers Island, County of Bronx, City and State of New York, the individual defendants, without probable cause therefor, offensively touched plaintiff when defendant DUNBAR struck plaintiff in the head with a walkie-talkie and defendants BRAVO and DOE joined defendant DUNBAR in striking plaintiff with their knees and their fists.

25. The aforesaid force used by the individual defendants was not reasonable under the circumstances.

26. At the aforementioned time and place, the individual defendants were acting within the scope of their employment by defendant THE CITY OF NEW YORK.

27. By reason of the aforementioned battery committed against him by the individual defendants, while they were acting within the scope of their employment by defendant THE CITY OF NEW YORK, plaintiff suffered and continues to suffer serious and permanent physical injuries and required medical treatment for his injuries.

28. As a result of the battery committed against him by the individual defendants, while they were acting within the scope of their employment by defendant THE CITY OF NEW YORK, plaintiff has been damaged in the amount of One Million

(\$1,000,000.00) Dollars and demands an additional One Million (\$1,000,000.00) Dollars as punitive damages against the individual defendants.

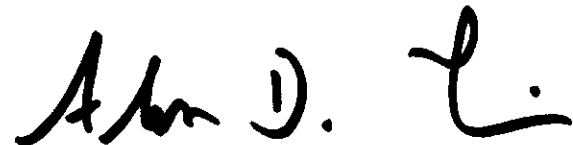
WHEREFORE, plaintiff, RAHEEM HALE, demands judgment against defendants, CAPTAIN S. DUNBAR, Shield No. 717, C.O. BRAVO, C.O. "JOHN DOE," and THE CITY OF NEW YORK, as follows:

FIRST CAUSE OF ACTION: One Million (\$1,000,000.00) Dollars and an additional One Million (\$1,000,000.00) Dollars as punitive damages against the individual defendants;

SECOND CAUSE OF ACTION: One Million (\$1,000,000.00) Dollars and an additional One Million (\$1,000,000.00) Dollars as punitive damages against the individual defendants.

In addition, plaintiff demands the costs and disbursements of this action, including his attorney's fees, pursuant to 42 U.S.C. §1988.

Dated: Kew Gardens, New York
July 8, 2011

A handwritten signature in black ink, appearing to read "Alan D. Levine". The signature is fluid and cursive, with a horizontal line drawn underneath it.

ALAN D. LEVINE, ESQ.
Attorney for Plaintiff
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File No. 2171